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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
की रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 21st August, 1986:—

BILL No XXIX OF 1986

A Bill further to amend the Dowry Prohibition Act, 1961, and to make certain necessary changes in the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Dowry Prohibition (Amendment) Act, 1986.

Short
title
and
commence
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

28 of 1961

2. In the Dowry Prohibition Act, 1961 (hereinafter referred to as the principal Act), in section 2, for the words "or after the marriage", the words "or any time after the marriage" shall be substituted.

Amend-
ment of
section 2.

Amend-
ment of
section 3

3. In section 3 of the principal Act, in sub-section (1),--

(a) in the opening paragraph, for the words "six months, but which may extend to two years, and with fine which may extend to ten thousand rupees or the amount of the value of such dowry, whichever is more", the words "five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more" shall be substituted;

(b) in the proviso, for the words "six months", the words "five years" shall be substituted.

Insertion
of new
section 4A.

4. After section 4 of the principal Act, the following section shall be inserted, namely:—

"4A. If any person,—

(a) offers through any advertisement in any newspaper, periodical, journal or through any other media, any share in his property or of any money or both as a share in any business or other interest as consideration for the marriage of his son or daughter or any other relative.

(b) prints or publishes or circulates any advertisement referred to in clause (a),

he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years, or with fine which may extend to fifteen thousand rupees:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months."

Amend-
ment of
section 6.

5. In section 6 of the principal Act,—

(a) in sub-section (2),—

(i) after the words "time limit specified therefor", the words, brackets and figure "or as required by sub-section (3)," shall be inserted;

(ii) for the words "which may extend to ten thousand rupees", the words "which shall not be less than five thousand rupees, but which may extend to ten thousand rupees" shall be substituted;

(b) in sub-section (3), the following proviso shall be inserted, namely:—

"Provided that where such woman dies within seven years of her marriage, otherwise than due to natural causes, such property shall,—

(a) if she has no children, be transferred to her parents, or

(b) if she has children, be transferred to such children and pending such transfer, be held in trust for such children.";

(c) in sub-section (3A),—

(i) after the word, brackets and figure “sub-section (1)”, the words, brackets and figure “or sub-section (3)” shall be inserted;

(ii) for the words “her heirs”, wherever they occur, the words “her heirs, parents or children” shall be substituted.

6. In section 7 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 7.

“(3) Notwithstanding anything contained in any law for the time being in force, a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act.”.

7. In section 8 of the principal Act, in sub-section (2), for the word “bailable”, the word “non-bailable” shall be substituted.

Amendment of section 8.

8. After section 8 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 8A and 8B.

“8A. Where any person is prosecuted for taking or abetting the taking of any dowry under section 3, or the demanding of dowry under section 4, the burden of proving that he had not committed an offence under those sections shall be on him.

Burden of proof in certain

8B. (1) The State Government may appoint as many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act.

Dowry Prohibition Officers.

(2) Every Dowry Prohibition Officer shall exercise and perform the following powers and functions, namely:—

(a) to see that the provisions of this Act are complied with;

(b) to prevent, as far as possible, the taking or abetting the taking of, or the demanding of, dowry;

(c) to collect such evidence as may be necessary for the prosecution of persons committing offences under the Act; and

(d) to perform such additional functions as may be assigned to him by the State Government, or as may be specified in the rules made under this Act.

(3) The State Government may, by notification in the Official Gazette, confer such powers of a police officer as may be specified in the notification on the Dowry Prohibition Officer who shall exercise such powers subject to such limitations and conditions as may be specified by rules made under this Act.

(4) The State Government may, for the purpose of advising and assisting the Dowry Prohibition Officers in the efficient performance of their functions under this Act, appoint an advisory board consisting of not more than five social welfare workers (out of whom at least two shall be women) from the area in respect of which such Dowry Prohibition Officer exercises jurisdiction under sub-section (1).”.

Substi-
tution of
new
section
for section
10.

9. For section 10 of the principal Act, the following section shall be substituted, namely:—

Power
of the
State
Govern-
ment to
make
rules.

"10. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the additional functions to be performed by the Dowry Prohibition Officers under sub-section (2) of section 8B;

(b) limitations and conditions subject to which a Dowry Prohibition Officer may exercise his functions under sub-section (3) of section 8B.

(3) Every rule made by the State Government under this section shall be laid as soon as may be after it is made before the State Legislature."

Amend-
ment of
Act 45
of 1860.

10. In the Indian Penal Code, after section 304A, the following section shall be inserted, namely:—

Dowry
death.

'304B. (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation.—For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961.

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.'

Amend-
ment of
Act 2 of
1974.

11. In the Code of Criminal Procedure, 1973, in the First Schedule after the entries relating to section 304A, the following entries shall be inserted, namely:—

| Section | Offence | Punishment | Cognizable or non-cognizable | Bailable or non-bailable | By what Court triable |
|---------|-------------|--|------------------------------|--------------------------|-----------------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 304B | Dowry death | Imprisonment of not less than seven years but which may extend to imprisonment for life. | Ditto | Non-bailable | Court of Session. |

28 of 1961.

12. In the Indian Evidence Act, 1872, after section 113A, the following section shall be inserted, namely:—

Amend-
ment of
Act I of
1872.

‘113B. When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.

Presump-
tion as to
dowry
death.

Explanation.—For the purpose of this section, “dowry death” shall have the same meaning as in section 304B of the Indian Penal Code.’.

STATEMENT OF OBJECTS AND REASONS

The Dowry Prohibition Act, 1961 was recently amended by the Dowry Prohibition (Amendment) Act, 1984 to give effect to certain recommendations of the Joint Committee of the Houses of Parliament to examine the question of the working of the Dowry Prohibition Act, 1961 and to make the provisions of the Act more stringent and effective. Although the Dowry Prohibition (Amendment) Act, 1984 was an improvement on the existing legislation, opinions have been expressed by representatives from women's voluntary organisations and others to the effect that the amendments made are still inadequate and the Act needs to be further amended.

2. It is, therefore, proposed to further amend the Dowry Prohibition Act, 1961 to make provisions therein further stringent and effective. The salient features of the Bill are:—

(a) The minimum punishment for taking or abetting the taking of dowry under section 3 of the Act has been raised to five years and a fine of rupees fifteen thousand.

(b) The burden of proving that there was no demand for dowry will be on the person who takes or abets the taking of dowry.

(c) The statement made by the person aggrieved by the offence shall not subject him to prosecution under the Act.

(d) Any advertisement in any newspaper, periodical journal or any other media by any person offering any share in his property or any money in consideration of the marriage of his son or daughter is proposed to be banned and the person giving such advertisement and the printer or publisher of such advertisement will be liable for punishment with imprisonment of six months to five years or with fine up to fifteen thousand rupees.

(e) Offences under the Act are proposed to be made non-bailable.

(f) Provision has also been made for the appointment of Dowry Prohibition Officers by the State Governments for the effective implementation of the Act. The Dowry Prohibition Officers will be assisted by the Advisory Boards consisting of not more than five social welfare workers (out of whom at least two shall be women).

(g) A new offence of "dowry death" is proposed to be included in the Indian Penal Code and the necessary consequential amendments in the Code of Criminal Procedure, 1973 and in the Indian Evidence Act, 1872 have also been proposed.

3. The Bill seeks to achieve the aforesaid objects.

FINANCIAL MEMORANDUM

Clause 8 of the Bill proposes to insert a new section 8B in the Dowry Prohibition Act, 1961 empowering the State Government to appoint as many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under the Act. As the State Government in respect of a Union territory is the Central Government, there would be some recurring expenditure from the Consolidated Fund of India in respect of allowances payable to the Dowry Prohibition Officers. Where a Dowry Prohibition Officer is appointed on a whole time basis in respect of any area, expenditure by way of salary payable to such officer, will also be involved. Some recurring expenditure will also be likewise involved in respect of payment of allowances to the Members of Advisory Boards which may be constituted in the Union territories. The quantum of such expenditure would vary from Union territory to Union territory. It would also depend on functions which will be assigned to the Dowry Prohibition Officers by the rules to be made under the proposed legislation. For all these reasons, it is not possible at this stage to make any proper estimate of the expenditure which will be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill seeks to empower the State Governments to make rules for carrying out the purposes of the Act. The matters in respect of which the State Governments may make rules relate to the additional functions to be performed by the Dowry Prohibition Officer under sub-section (2) of section 8B and the limitations and conditions subject to which the Dowry Prohibition Officer may exercise his functions, under sub-section (3) of section 8B.

The aforesaid matters pertain to matters of detail. Further provision has also been made for the laying of the rules made by a State Government before the State Legislature. The delegation of legislative power involved is, therefore, of a normal character.

SUDARSHAN AGARWAL,
Secretary-General.